

## Nuclear Regulatory Commission

## § 26.71

drugs. Licensee sanctions for confirmed misuse of alcohol, valid prescription, and over-the-counter drugs shall be sufficient to deter abuse of legally obtainable substances as a substitute for abuse of proscribed drugs.

(c) Refusal to provide a specimen for testing and resignation prior to removal for violation of company fitness-for-duty policy concerning drugs must be recorded as removals for cause. These records must be retained for the purpose of meeting the requirements of § 26.27(a).

(d) If a licensee has a reasonable belief that an NRC employee may be under the influence of any substance, or otherwise unfit for duty, the licensee may not deny access but shall escort the individual. In any instance of this occurrence, the appropriate Regional Administrator must be notified immediately by telephone. During other than normal working hours, the NRC Operations Center must be notified.

[54 FR 24494, June 7, 1989, as amended at 58 FR 31470, June 3, 1993]

### § 26.28 Appeals.

Each licensee subject to this part, and each contractor or vendor implementing a fitness-for-duty program under the provisions of § 26.23, shall establish a procedure for licensee and contractor or vendor employees to appeal a positive alcohol or drug determination. The procedure must provide notice and an opportunity to respond and may be an impartial internal management review. A licensee review procedure need not be provided to employees of contractors or vendors when the contractor or vendor is administering his own alcohol and drug testing.

### § 26.29 Protection of information.

(a) Each licensee subject to this part, who collects personal information on an individual for the purpose of complying with this part, shall establish and maintain a system of files and procedures for the protection of the personal information. This system must be maintained until the Commission terminates each license for which the system was developed.

(b) Licensees, contractors, and vendors shall not disclose the personal in-

formation collected and maintained to persons other than assigned Medical Review Officers, other licensees or their authorized representatives legitimately seeking the information as required by this part for unescorted access decisions and who have obtained a release from current or prospective employees or contractor personnel, NRC representatives, appropriate law enforcement officials under court order, the subject individual or his or her representative, or to those licensee representatives who have a need to have access to the information in performing assigned duties, including audits of licensee's, contractor's, and vendor's programs, to persons deciding matters on review or appeal, and to other persons pursuant to court order. This section does not authorize the licensee, contractor, or vendor to withhold evidence of criminal conduct from law enforcement officials.

## INSPECTIONS, RECORDS, AND REPORTS

### § 26.70 Inspections.

(a) Each licensee subject to this part shall permit duly authorized representatives of the Commission to inspect, copy, or take away copies of its records and inspect its premises, activities, and personnel as may be necessary to accomplish the purposes of this part.

(b) Written agreements between licensees and their contractors and vendors must clearly show that the—

(1) Licensee is responsible to the Commission for maintaining an effective fitness-for-duty program in accordance with this part; and

(2) Duly authorized representatives of the Commission may inspect, copy, or take away copies of any licensee, contractor, or vendor's documents, records, and reports related to implementation of the licensee's, contractor's, or vendor's fitness-for-duty program under the scope of the contracted activities.

### § 26.71 Recordkeeping requirements.

Each licensee subject to this part and each contractor and vendor implementing a licensee approved program under the provisions of § 26.23 shall—

(a) Retain records of inquiries conducted in accordance with § 26.27(a),